

REMARKS/ARGUMENTS

This application has been carefully considered in light of the non-final Office Action on the merits of May 19, 2005. This application contains claims 6-25.

Claims 6, 12, 13, 16 and 23 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In this respect, it is respectfully submitted that the amendments to the claims submitted herewith overcome this grounds for rejection. Therefore, reconsideration of this grounds for rejection is requested.

Claims 19 and 20 have been rejected under 35 U.S.C. 112, first and second paragraphs, as not being enabling and for being indefinite. In this respect these claims have been amended to make it clear that the "means for purchasing" is used to select items to be purchased as listed on the database and not that the database makes the purchase. Therefore, reconsideration of these grounds for rejection is also solicited.

Claims 6, 8-1, 15-18, 21, 22 and 24 have been rejected under 35 U.S.C. 103(a) as being obvious and therefore unpatentable over US patent 6,778,967 to Nicholson when considered in view of the teachings of US patent 6,741,969 to Chen.

Claims 7 and 14 have been rejected under 35 U.S.C. 103(a) as

being obvious and therefore unpatentable over US patent 6,778,967 to Nicholson when considered in view of the teachings of US patent 6,741,969 to Chen and further in view of the teachings of US patent 6,594,644 to Van Dusen.

Claims 19 and 20 have been rejected under 35 U.S.C. 103(a) as being obvious over the combination of Nicholson and Chen when further considered with the teachings of US patent 6,526,277 to Zicker.

Claim 23 has been rejected under 35 U.S.C. 103(a) as being obvious over the combination of Nicholson and Chen when further considered with the teachings of US patent 6,151,565 to Lobley.

As discussed at a previous interview with the Examiner and a Supervisory Examiner, the present invention is directed to a secure electronic method and system for purchasing commodities at a present or real time purchase price for redemption at a later date wherein a purchaser is **pre-registered** with the system and **a credit approval obtained** to make a purchase within the system and wherein the purchaser is provided with a **unique identification or authorization code with respect to purchases** made. The method and system further establishes and maintains a quantity credit account with respect to quantities of a commodity authorized and purchased by a purchaser. Each of the independent claims of the application have been amended to specifically recite these features which are

not believed to be taught or suggested in the cited references.

Support for these elements of the invention or discussed at page 8 beginning at lines 4, 7 and 16, page 9, line 6, page 10, beginning at line 16, page 11 at line 15, and page 16 beginning at line 1.

The foregoing elements of the present invention were discussed at the interview as clearly distinguishing the method and system of the present invention over the teachings of the patent to Nicholson. The reference to Nicholson does not provide for a secure system wherein a purchaser must pre-register and receive credit approval by way of credit check nor one wherein a unique and secure access code is provided to allow a purchaser to purchase and redeem quantities of a commodity purchased at a later time.

In the latest action, the Examiner states that the combination of Chen and Nicholson teach the steps of pre-registering and providing a secure access code to permit future purchases and further states that Chen discloses both pre-registration and providing a secure access code as no such pre-registration nor secure access code is provided in the reference to Nicholson. Chen, however, discloses a dining auction web site where users place bids to reserve tables and may print or receive by mail winning certificates. Users may also buy gifts and items. It is not clear how the reference provides the secure access code disclosed by the present invention and there is no suggestion of

the need to secure a transaction by way of a credit check. Maintaining information with respect to a purchaser for purposes of later marketing or advertising as is disclosed in Chen is not believed to be "providing a unique access code" in accordance with the meaning of the claims of the present invention and certainly no credit authorization is necessary.

Further, even though Nicholson mentions in the next to the last paragraph of his specification that a customer may access a web site to purchase fuel from a vendor, there is no suggestion of any pre-registration or credit approval nor any provision that the customer receive a secure access code to the web site in order to make a transaction. In fact, Nicholson teaches away from providing a secured access code or credit check or approval over a web site operation because Nicholson's system is an open web site allowing any purchaser to make a purchase either directly at a fuel dispensing site or indirectly over the web using a conventional method of payment not requiring credit approval. The purchase is paid for directly by the consumer without any pre-registration, credit approval nor issuance of a secured access code to access the web site or fuel dispenser to make a purchase, as is the case in the present invention.

In Nicholson, the consumer may be issued a receipt or token reflecting that a purchase has been made, however, such a receipt

or token is a bearer indication that a product has been purchased that is clearly not secured with respect to either the seller or the purchaser. The receipt is only verifiable with respect to the purchase itself but not the customer. Such an unsecured token based system would not be appropriate for large industrial, commercial or government consumers that must operate using secured transactions that can be relied upon for auditing purposes.

In view of the foregoing it is respectfully submitted that the invention as claimed in any of the independent claims of the application is not anticipated nor suggested in either of the references to Nicholson or Chen or any combination thereof. Therefore, it is also respectfully submitted that the rejection of the dependent claims over the additional combinations of references including those to Van Dusen, Zicker and Lobley should also be reconsidered and withdrawn.

Claims 7 and 14 are directed to a method and system wherein at least a portion of the commodity purchased may be transferred in the system database to be redeemed by another or different entity. There is no such secured method or system taught in the reference to Nicholson or the secondary reference to Van Dusen. Support for this feature of the invention is found at page 8, line 10 and page 12, line 16.

Van Dusen is directed to a gift system. As such, the system

may permit an electronic transfer of the gift purchased such that the party receiving the gift may receive the gift while the purchaser is charged for the gift. Again, such a system does not teach the secured transaction system taught by the present invention that permits secure commodity purchases at a current market price that may be redeemed at a future date and wherein the redemption may be made by a secured party other than the purchaser, should the purchaser make such a secured transfer within the system database.

Claim 19 is directed to a system as set forth above wherein the quantities of commodities purchased may be made with respect to different geographic price zones, see drawing Figs. 5 and 7. There is no teaching in the cited references with respect to this aspect of the invention. Claim 20 is directed to the system wherein the zones may be converted, see drawing Figs. 5-11.

The patent to Zicker has been cited as teaching selecting and purchasing a commodity in one of a plurality of geographic price zones. Zicker, however, is directed to a system of allowing a cellular telephone customer to obtain different levels of service depending upon different zones of cell coverage offered by the cellular provider. What is taught is that a cellular customer may target the size and area of cellular coverage they would like. There is no teaching of purchasing time or coverage in a current

time by selecting different times in the various areas of coverage that permit such time or coverage to be used at a later date.

Further, the system of Zicker is also an open non-secured consumer based system and thus is distinguishable for the same reasons as discussed with respect to the reference to Nicholson.

Claim 23 is directed to the system of claim 13 further including weighted averaging of commodities purchased as described at page 19, the paragraph beginning at line 9. No such averaging is suggested in the cited references.

The reference to Lobley has been cited as teaching a weighted averaging of an account with respect to same commodities within a purchaser's account as is set forth in claim 23 of the present application. The reference is not directed to an analogous art and is directed to a support system for article manufacturing. The reference to "weighted average" at column 15 lines 12-19 is with respect determining costs in manufacturing as they related to a cost/benefit analysis that is a measure of the quality of a product, such as weight, size, material strength, style and color, as they effect an end cost to a consumer. There is no discussion nor suggestion of separating a quantity credit account into discrete purchase blocks and combining data to provide a weighted average purchase value of same type commodities purchased in a format that can be compared with current market prices for the same

commodities. Applicant teaches an analysis with respect to like commodities purchased in blocks as they relate to current market price and there is no suggestion of this in the reference to Lobley. This is an instance where the meaning given to a term in one art area differs totally from the meaning in another art area.

With respect to claim 12, a method of electronically transacting the purchase of a commodity is claimed that includes separating the quantity credit account into discrete purchase blocks with respect to commodities purchased. Such a block representation in a database is also not disclosed in the reference to Nicholson. Support for this feature of the invention is found at page 13, line 1, the paragraph beginning at page 14, line 16, page 19, lines 1-3 and drawing Fig. 11.

Claims 21 and 22 are directed to a system wherein encoded access devices may be used to obtain redemption of commodities purchased, see page 12, line 13 and page 16, the paragraph beginning at line 16.

Claims 24 and 25 are directed to the system of claim 13 further including means to review and print file histories, see page 18, line 6, page 19, line 7, and Fig. 2, and to modify purchase contact information, see page 13, the paragraph beginning at line 9, page 19, line 14, and Figs. 3 and 10.

In view of the foregoing, it is respectfully submitted that

the primary reference to Nicholson and Chen do not anticipate the method or the system of the present invention for the reasons set forth herein. Therefore, as these reference do not provide a sufficient nexus to support an obviousness rejection, it is respectfully submitted that the claims that have been rejected over the combinations of secondary and primary references are inventive and not anticipated by such combinations for the reasons set forth above.

An earnest effort has been made to place this application in condition for allowance. It is submitted that claims 6-25 are distinguishable over the cited prior art and any combination thereof. Favorable consideration and allowance of the claims is solicited.

Should the Examiner have any questions regarding this response or the amendments being submitted or the allowability of the claims, it would be appreciated if the Examiner would contact the undersigned attorney-of-record at the telephone number shown below for purposes of scheduling a further personal interview in order to expedite the further prosecution of the application.

A request for a one month extension of time is submitted with this response. Any additional fees relating to this response only may be charged to deposit account 04-1577.

Appl. No. 09/805,950 Senior Response filed 09/19/05 to Non-Final Office Action
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Respectfully submitted,

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By 

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